

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

**This document relates to:**

*The City of Chicago, Illinois v. Cardinal  
Health Inc. et al., Case No. 1:18-op-45281  
(N.D. Ohio).*

**MDL No. 2804**

**Case No. 1:17-md-2804**

**Judge Dan Aaron Polster**

**PLAINTIFF'S UNOPPOSED MOTION  
FOR LEAVE TO FILE AMENDED  
COMPLAINT UNDER SEAL**

## **INTRODUCTION**

Pursuant to Local Rule 5.2, and as advised by the Special Masters, Plaintiff the City of Chicago (“Plaintiff” or the “City”) seeks leave to file the Amended Complaint in the above-listed case under seal on Wednesday, May 9, 2018. Plaintiff separately sued manufacturers of opioids for their deceptive marketing in *City of Chicago v. Purdue Pharma, L.P. et al.*, Case No. 17-OP-45169 (N.D. Ohio). In its Case Management Order One, ECF Doc. 232 (hereinafter “CMO One”), the Court selected *City of Chicago v. Purdue Pharma, L.P. et al.*, for inclusion among the cases to be subject to a process for briefing threshold legal issues on common claims, and ordered that the City either amend its complaint, or give notice that its complaint in that action would not be amended, by Wednesday, April 25, 2018. *See* CMO 1 ¶ 2. The above-captioned case, *City of Chicago, Illinois v. Cardinal Health Inc. et al.*, by contrast, was omitted from this process. On Friday, April 20, 2018, Defendant Cardinal Health, Inc. (“Cardinal”) requested that the City’s separate action against Cardinal and other distributors be included in this briefing process. Because this action was not originally part of the process or subject to the timing set forth in CMO 1 ¶ 2, and because this request came so close to the deadline for filing amended complaints, the City requested an extension until May 9, 2018 to file its Amended Complaint in *City of Chicago, Illinois v. Cardinal Health Inc. et al.*. Plaintiff has conferred with Defendants, who consent to the filing of this Motion.

On April 25, 2017, Plaintiffs in the seven actions with the earliest deadline for filing Amended Complaints moved for Leave to file these complaints under seal in order to ensure compliance with relevant confidentiality and protective orders. *See* ECF Doc. 253. This Motion, which the Court granted on April 25, 2018, *see* ECF Doc. 668, did not include actions such as the above-captioned case or that filed by the State of Alabama, which were subject to later deadlines.

Plaintiff files this Motion and Proposed Order (attached as **Exhibit A**) to ensure compliance with the following Orders:

1. **the Court's** CMO One;
2. Protective Order Re: DEA's ARCOS/DADS Database, ECF Doc. 167 (hereinafter "ARCOS Protective Order"); and
3. Amendment to Protective Order, ECF Doc. 400.

Local Rule 5.2 states: "No document will be accepted for filing under seal unless a statute, court rule, or prior court order authorizes the filing of sealed documents." Loc. R. 5.2.

On March 6, 2018, the Court issued a Protective Order regarding the "ARCOS Data," and stated:

If contained in a pleading, motion, or other document filed with this Court, any Designated Information must be marked with the applicable confidentiality designation, designated as "Subject to Protective Order," and filed under seal with prior Court authorization. Only the portions of the filed document containing Designated Information are subject to being filed under seal, and a party shall file both a redacted version for the public docket and an unredacted version for sealing.

ARCOS Protective Order, at ¶ 8. On May 8, 2018, the Court issued an Amendment to Protective Order, providing that the ARCOS Protective Order "shall also govern and apply to the Suspicious Order Reports provided by DEA in the same manner as it governs and applies to the DEA's ARCOS data." ECF Doc. 400 at ¶ 2.

### **ANALYSIS**

The City respectfully requests leave to file its Amended Complaint under seal in order to comply with CMO One and the ARCOS Protective Order and Amendment thereto. The Amended Complaint will contain information designated CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER by the ARCOS Protective Order.

As suggested by the Special Masters and in accordance with CMO One and the ARCOS Protective Order, the City requests leave to file the Amended Complaint under seal in the following case: *The City of Chicago, Illinois v. Cardinal Health Inc. et al.*, Case No. 1:18-op-45281 (N.D. Ohio). As noted above, this Court previously granted a similar motion to file Amended Complaints under seal in seven cases in which Amended Complaints were filed on April 25, 2018. *See* Order Granting Plaintiffs' Motion to Strike and Amended Motion for Leave to File Amended Complaints Under Seal, ECF. Doc. 668.

Plaintiff respectfully request the option to proceed in this manner so there are no inadvertent disclosures of information subject to the ARCOS Protective Order.

WHEREFORE, Plaintiff respectfully requests the Honorable Court to grant Plaintiff's Motion for Leave to File Amended Complaint Under Seal.

Dated May 9, 2018

Respectfully submitted,

/s/ Linda Singer

Thomas P. McNulty  
Fiona A. Burke  
City of Chicago, Department of Law  
30 N. LaSalle St., Suite 1240  
Chicago, IL 60602  
[thomas.mculty@cityofchicago.org](mailto:thomas.mculty@cityofchicago.org)  
[fiona.burke@cityofchicago.org](mailto:fiona.burke@cityofchicago.org)  
Phone: (312) 744-6929  
Fax: (312) 742-3832

Linda Singer  
Elizabeth Smith  
David I. Ackerman  
Jeffrey C. Nelson  
MOTLEY RICE LLC  
[lsinger@motleyrice.com](mailto:lsinger@motleyrice.com)  
[esmith@motleyrice.com](mailto:esmith@motleyrice.com)  
[dackerman@motleyrice.com](mailto:dackerman@motleyrice.com)

[jnelson@motleyrice.com](mailto:jnelson@motleyrice.com)

401 9<sup>th</sup> Street NW, Suite 1001

Washington, DC 20004

Phone: (202) 232-5504

Fax: (202) 386-9622

Kenneth A. Wexler

Bethany R. Turke

Kara A. Elgersma

Thomas A. Doyle

WEXLER WALLACE LLP

55 W. Monroe Street, Suite 3300

Chicago, IL 60603

[kaw@wexlerwallace.com](mailto:kaw@wexlerwallace.com)

[brt@wexlerwallace.com](mailto:brt@wexlerwallace.com)

[kae@wexlerwallace.com](mailto:kae@wexlerwallace.com)

[tad@wexlerwallace.com](mailto:tad@wexlerwallace.com)

Phone: (312) 346-2222

Fax: (312) 346-0022

*Attorneys for Plaintiff City of Chicago*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 9<sup>th</sup> day of May 2018, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF System. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF System.

/s/ Linda Singer

Linda Singer  
*Attorney for Plaintiff City of Chicago*